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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/930,717	08/15/2001	John M. Packes JR.	00-065	2438
22927	7590	03/31/2004		
WALKER DIGITAL FIVE HIGH RIDGE PARK STAMFORD, CT 06905			EXAMINER PARADISO, JOHN ROGER	
			ART UNIT	PAPER NUMBER
			3721	20
DATE MAILED: 03/31/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/930,717

Applicant(s)

PACKES ET AL.

Examiner

John R. Paradiso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,3-15 and 18-30 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1,3-15 and 18-30 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Response to Amendments***

1. In view of the amendments filed 11/19/2003, the rejections to the claims under 35 U.S.C. § 112 are hereby withdrawn.

***Claim Rejections***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1, 3-9, 11-15, and 18-28 are rejected under 35 U.S.C. § 102(b) as being anticipated by ADAMS, as set forth in paragraph 6 of the previous Office Action.
4. Claims 10, 29, and 30 are rejected under 35 U.S.C. § 103(a) as being unpatentable over ADAMS in view of GRAVES ET AL (US 5830067).

ADAMS does not disclose receiving or transmitting the results of the “automated session” via server, internet, or wireless communication.

GRAVES ET AL discloses a game method comprising a remote player (12) that sends signals over a communications link (13) instructing an automatic proxy player (14) with a maximum number of games to play, play rate, etc. and subsequent instructions including credit balance, etc. The proxy player receives this data and initiates automatic play of the game,

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terminating the automatic play when stop conditions are met, the stop conditions being dependent on the initial instructions of the remote player. The method is carried out via operation of a computer program code and game data is stored in memory (24, 34). The games include a variety of types with a variety of payout schedules. The initiation of automatic play is considered a start lock time for that remote player until termination of automatic play.

Note that the communication link (13) of GRAVES ET AL is disclosed as “a telephone, radio link, or some other communications means commonly known in the art” (GRAVES ET AL col 4:11-16). This is being read as including Internet communication.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to add a server to the invention of ADAMS to increase the game owner's information regarding the game outcomes and to give the invention of ADAMS an IP address and/or a wireless means of communication so it can be accessed remotely and/or over the internet, as taught by GRAVES ET AL, thus increasing the convenience to players.

### ***Response to Arguments***

5. Applicant's arguments filed 11/19/2003 have been fully considered but they are not persuasive.

6. Applicant states on page 3, section 1.1, of his Response that Adams does not teach

- “An automated session comprising a plurality of lottery outcomes
- An automated session comprising a plurality of instant lottery games
- An automated session corresponding to a set of instant lottery outcomes”

However, while the claimed “automated session” is not indefinite, it is broad enough that a reasonable interpretation of the phrase “automated session” includes the wheels of ADAMS spinning, or, alternatively, each of the three wheels of ADAMS spinning.

Further, since each of the wheels of ADAMS spins to show a lottery, which Merriamwebster.com defines as “an event or affair whose outcome is or seems to be determined by chance”. If each of the wheels is considered to comprise a lottery outcome, then ADAMS clearly shows a plurality, and a set of lottery outcomes.

7. Applicant states on page 4 of his Response that “the ‘rotatable bonus wheel’ described in Adams is devoid of a hint or suggestion of an automated session comprising a plurality of lottery outcomes or lottery games.”

However, while the claimed “automated session” is not indefinite, it is broad enough that a reasonable interpretation of the phrase “automated session” includes the wheels of ADAMS spinning, or, alternatively, each of the three wheels of ADAMS spinning.

Further, since each of the wheels of ADAMS spins to show a lottery, which Merriamwebster.com defines as “an event or affair whose outcome is or seems to be determined by chance”. If each of the wheels is considered to comprise a lottery outcome, then ADAMS clearly shows a plurality, and a set of lottery outcomes.

8. Applicant states on page 4, section 1.2, of his Response that “Adams, considered as a whole, does not fairly suggest features of determining at least one parameter associated with the automated session, determining a limiting criterion based on the at least one parameter, determining if the limiting criterion has occurred, or terminating the automated session if the limiting criterion has occurred.

However, the limiting criterion in ADAMS is the time it takes for the wheels to spin or whether they have finished spinning.

9. Applicant states on page 4, section 1.3, of his Response that “Applicants respectfully submit that the Examiner asserts that the Examiner is reading lottery outcome on the ‘random outcome of the wheel’ of Adams. However, to establish a prima facie case of anticipation, both the claims and the prior art must be interpreted from the viewpoint of one of ordinary skill in the art (not the Examiner’s viewpoint) at the time the invention was made.”

However, while all such determinations involve a certain of judgment as to exactly what one of ordinary skill in the art knows or would know, it is the function of the Examiner to make that judgment and he has done so here to the best of his ability and judgment.

10. Applicant states on pages 5-6 of his Response regarding the 103(a) rejection, that he traverses the use of Official Notice regarding the transmission of the game session results via server, internet, or wireless communications.

However, this argument is rendered moot in view of the rejection in paragraph 4 above.

*Conclusion*

11. Applicant's amendment/argument necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

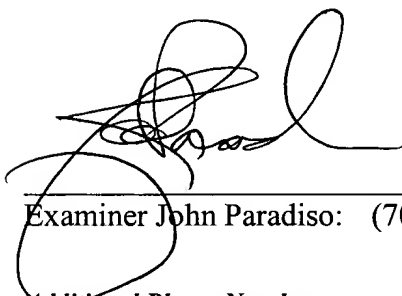
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.




Examiner John Paradiso: (703) 308-2825

March 30, 2004

**Additional Phone Numbers:**

Supervisor Rinaldi Rada: (703) 308-2187  
TC 3700 Receptionist: (703) 308-1148  
Customer Service: (703) 306-5648  
Fax (directly to Examiner) (703) 746-3253  
Fax (Official): (703) 872-9306



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